

BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA
REGULAR MEETING
October 12, 2004
Draft

The Board of County Commissioners of Leon County, Florida, met in regular session with Chairman Sauls presiding. Present were Commissioners Thael, Maloy, Winchester, Proctor, Grippa, and Rackleff. Also present were County Attorney Herb Thiele, County Administrator Parwez Alam, Deputy Clerk Bill Bogan, Jr., and Secretary Sandra C. O'Neal.

Invocation was provided by Chairman Jane Sauls followed by the Pledge of Allegiance to the Flag.

Awards and Presentations

- Commissioner Grippa presented the attached resolution to the Tallahassee Celtic Festival Planning Committee recognizing their hard work and efforts. The Festival will be held on Saturday, October 30, 2004, 8:30 – 4:00 p.m., at Sunny Hill Farm.
- Commissioner Grippa presented the attached resolution to Tony Park, Public Works Director, recognizing the hard work and tireless efforts of the Leon County Public Works staff during the hurricanes.
- The resolution for retiring Leon County Sheriff's Office Employee, Major Watson, was continued to October 23, 2004.
- Ken Armstrong, President of United Way of Big Bend, gave a brief presentation on the 2004 United Way Campaign on "*Who is the United Way.*" It was noted that Parwez Alam, County Administrator, would be the United Way's Local Government Chairman. The local government campaign's kickoff (City/County) is scheduled for October 22, 2004 and the goal is to raise \$398,121. Mr. Armstrong explained that Jennie Khoen, Public Information Officer, is Leon County's United Way Coordinator and Leon County's goal is to raise \$143,600.
- Commissioner Thael presented the attached resolution to James E. McRoy, Sr. recognizing his 12 years of service as a member of the Code Enforcement Board.
- Chairman Sauls presented the attached resolution to Paul Cozzie, recognizing his outstanding service as Leon County's first Parks and Recreation Director. The Board expressed gratitude for his work and wished him well on his new job in south Florida.

Consent

Commissioner Maloy moved, duly seconded by Commissioner Thael and carried unanimously, 7/0, to approve Consent Agenda with the exception of Items 3, 7, and 13, which were addressed as described, and removal of Item 20:

1. Approval of Minutes

The Board approved Options 1 and 2: Approve Minutes of June 29, 2004 Special Joint City/County Meeting on Comp Plan 2004-2 Plan Amendments and September 14, 2004 Regular Meeting.

2. Bills and Vouchers

The Board approved Option 1: Approve payment of bills and vouchers submitted for approval for October 12, 2004, and pre-approve payment of bills and vouchers for the period October 13, 2004 through October 25, 2004: \$8,954,423.67

3. Authorized to Conduct a Comprehensive Salary and Benefits Study at Local Area Law Enforcement Agencies

Commissioner Thael pulled this item and reminded the Board that when the Board previously discussed salaries for Leon County Sheriff Office, the Board stated that they would also look at equitable salaries for correctional officers. He suggested that this be included in the motion.

Commissioner Thael moved, duly seconded by Commissioner Maloy and carried unanimously, 7/0, to approve Option 1, as amended: Authorize staff to conduct a comprehensive salary and benefit study comparing local area law enforcement agencies and include correctional officers in the study.

4. Approval to Issue Request for Proposal (RFP) for Financial Advisory Services

The Board approved Option 1: Authorize staff to issue the Financial Advisory Services request for proposals.

5. Approval of FY 03/04 Housing Carry-forward Request

The Board approved Option 1: Authorize the carry forward of FY 2003/2004 appropriations for the State Housing Initiative Partnership (SHIP) and approve the associated resolution and budget amendment:

6. Approval to Submit the Killearn Lakes Restoration *Florida Forever* Grant Application

The Board approved Option 1: Approve the submittal of the Killearn Lakes Restoration Florida Forever Grant application and the County match of \$247,000.

7. Acceptance of Status Report Regarding Public Displays on County Property

This agenda item seeks the Board's acceptance of the status report on Board issues related to holiday decorations, public displays, uses of staff and funding.

The following speakers appeared and spoke on the issue of displaying a Hanukkah at the Courthouse.

John Rosner, 718 Lothian Drive, stated that the Supreme Court has already decided a case substantially similar to this one. The option recognizes that both Christmas and Hanukkah are part of the same winter holiday season which has attained a secular status in this society. Mr. Rosner stated that every year, there are hundreds of Menorah's erected around the country. Mr. Rosner circulated a magazine showing the various types of menorahs and requested that the Board allow the placement of a menorah along side a Christmas tree on Monroe Street in front of the Courthouse.

Michael Belitzky, 421 Williams Street, stated that he was supportive of a menorah being placed in front of the Courthouse. He suggested that if the debate involves separation of Church and State, the County would have to reevaluate the way the cross is being displayed as a memorial along side a County road where someone has died. He urged the Board to allow a menorah to be displayed in front of the Courthouse to show the cultural diversity and religious faith that this community has.

Howard Eagelfeld, 6456 Joe Cotton Trail, appeared in support of the display of the menorah on public property, whether it be at the Courthouse or otherwise. He felt that the details of the proposal should be worked out between the parties.

Ruth Reinhold, 2093 Greenwood Drive, explained that America is a God-loving country and when the Menorah is placed next to a Christmas tree, it tells the community that all kinds of people are welcomed.

Rabbi Oirechman, 2093 Greenwood Drive, remarked that the Jewish Community is a united one and placing a Menorah in front of the

Courthouse on public property involves the right for freedom of expression. Rabbi Oirechman referred to the Supreme Court case ruling from 1989 in Allegany County where the Court ruled that a menorah could be placed outside a city/county building next to a Christmas tree and that it did not violate the law of separation of church and state.

Commissioner Grippa opined that a menorah could be placed on the Courthouse grounds as a secular representative of the holiday seasons. He enumerated several government places that allow a Menorah.

Commissioner Grippa moved and was duly seconded by Commissioner Thaeil to allow placement of a Menorah on county property, similar to the way other organizations do, and that County legal staff provide advice on how and where its placement would be and the funding. Commissioner Thaeil reported that he talked to City Commissioner Katz about doing a joint City/County display somewhere in the community and offered a friendly amendment to the motion, which was accepted, to talk to the City about a joint display.

Commissioner Rackleff referred to a letter from the Tallahassee Jewish Federation, which represent several Jewish organizations in Tallahassee, asking the County to not place a Menorah on County property. He stated that the County should not be sponsoring religious symbols at the Courthouse and pointed out that the request for one does not represent all of the Jewish community in Tallahassee.

Commissioner Rackleff moved a substitute motion, seconded by Commissioner Sauls (Vice-Chair Thaeil assumed the Chair), to approve Option 1: Accept the status report and take no further action.

County Attorney Thiele responded to the Board's inquires and stated that if a Menorah is placed at the Courthouse, two things could occur: The subject matter of the display could be challenged and it is likely that the County would lose; if the County prevailed then displays of other religious symbols would be allowed to be erected. Mr. Thiele referred to the Allegany Case and opined that the real issue is the display of a religious symbol at a court facility where neutrality is to be supreme. (He explained that this is a significant difference of the Menorah being erected in places such as Washington Mall, City Hall, and airport). Commissioner Grippa clarified that his motion was to ask the County Attorney to determine the best site to place the Menorah.

The substitute motion failed 2 – 5 (Commissioners Grippa, Proctor, Winchester, Maloy, and Thaeil voted in opposition).

The original motion on the floor carried 5 – 2 (Commissioners Sauls and Rackleff voted in opposition).

8. Approval of Agreement with Legal Services of North Florida, Inc., to Provide Legal Aid Services in Leon County

Board approved Option 1: Approve the agreement between Leon County and Legal Services of North Florida, Inc.
9. Approval of Settlement Agreement with Tallahassee Housing Authority for Acquisition of Property Needed for Orange Avenue Widening Project

The Board approved Option 1: Approve the proposed stipulated final judgment.
10. Approval of Cellular Phone Allowance Reimbursement Rates

The Board approved Option 1: Approved the proposed cellular Phone Allowance reimbursement rates.
11. Approval of FY 2004/2005 Contract with the Economic Development Council (EDC) to Promote Job Growth and Comprehensive Economic Development in Leon County

The Board approved Option 1: Approve the Economic Development Council (EDC) agreement for FY 2004/2005 in the amount of \$210,000.
12. Ratification of Board Actions taken at the 2005 State and Federal Legislative Priorities on September 21, 2004

The Board approved Option 1: Ratify the Board actions taken at the September 21, 2004, workshop on 2005 State and Federal Legislative Priorities. See attached agenda request:
13. Approval of Renewal of FY 04-05 Intergovernmental Transfer (IGT) Agreements Between Leon County, State of Florida, and Tallahassee Memorial HealthCare, Inc. for the Provision of Primary Healthcare Services

This item seeks Board approval to renew for FY 04-05, the Intergovernmental Transfer (IGT) Agreements between Leon County, the State of Florida, and Tallahassee Memorial HealthCare, Inc., regarding the Intergovernmental Transfer Program for the provision of primary care healthcare services to the uninsured, underinsured, and indigent residents of Leon County.

Commissioner Thaeil moved and was duly seconded by Commissioner Grippa to approve Option 1, as amended: Approve the agreement between Leon County, the State of Florida (AHCA), and Tallahassee Memorial HealthCare, Inc., and authorize the Chairman to execute the agreements, and increase the MSTU by another \$1 million (dedicated for the Women's Health Care Center) and authorize staff to send that \$1 million through the Intergovernmental Transfer which would bring in another \$175,000 for the uninsured.

The motion carried unanimously, 6/0 (Commissioner Winchester was out of Chambers).

The Board then entered discussion under General Business, Item 22.

14. Approval of the Issuance of Housing Finance Authority (HFA) Multifamily Revenue Bonds for the Lakes at San Marcos Apartments, in an Amount not to Exceed \$16,800

The Board approved Option 1: Authorize the Housing Finance Authority of Leon County, Florida, to seek a private activity bond allocation from the state of Florida, and to issue Affordable Housing Multifamily Revenue Bonds in the amount of \$16,800,000 for The Lakes at San Marcos Apartments.

15. Approval to Submit the 2004/2005 State Aid to Libraries Grant Application

The Board approved Option 1: Approve the submission of the FY 2004-2005 State Aid to Libraries Grant application and authorize the Chairman to sign the grant agreement.

16. Acceptance of Cloudland Drive 2/3 Paving Petition and Continuation of the cloudland Drive Stormwater Project

The Board approved Options 1 and 2: 1) Accept the petition on a "per parcel" assessment basis and authorize staff to begin right-of-way and easement acquisition for Cloudland Drive 2/3 Project; 2) Direct staff to continue with the Cloudland Drive Stormwater CIP.

17. Approval to Record the Plat of Dalton Subdivision

The Board approved Option 1: Approve the recording of Dalton Subdivision Plat in the public records of Leon County.

18. Adoption of the Enabling Resolution of Leon County Animal Control Advisory Committee, Committee By-Laws, and Approval of Committee Members

The Board approved Options 1, 2, and 3: 1) Adopt the attached Enabling Resolution R04- reestablishing the Leon County Animal Control Advisory Committee; 2) Approval of the Leon County Animal Control Advisory Committee By-Laws; 3) Appoint the recommended committee members.

19. Acceptance of \$10,000 Electronics Recycling Grant from Dell, Inc., and Authorization to Execute the Dell Recycling Grant Agreement

The Board approved Options 1 and 2: 1) Accept the \$10,000 Electronics Recycling Grant from Dell, Inc., to host an electronics recycling event and authorize the Solid Waste Management Director to execute the Dell Recycling Grant Agreement; 2) Approve the attached Resolution and associated Budget Amendment Request:

20. Authorization to Transfer \$3,566 from the General Fund Contingency Fund for the Purpose of Demolition of Two Dilapidated Structures in Accordance with the Public Nuisance Abatement Ordinance No. 96-07

This item was removed from the agenda.

21. Approval of Proposed Space Allocation

This agenda item involves approval of Space Planning Committee's proposed space allocations of new space in the Bank of America (BOA) Plaza and the proposed reallocations and renovations of existing space within the Leon County Courthouse.

County Administrator Alam explained that all the parties (Constitutional Officers, Clerk of the Court, Court Administration, and the County) have agreed to the Space Allocation Plan.

The Board engaged in some discussion regarding the \$1.6 million shortfall to pay down the debt for the BOA building and complete Courthouse renovations.

Commissioner Thael moved and was duly seconded by Commissioner Maloy to approve Options 1 and 2: 1) Approve the Space Planning Advisory Group's recommended allocation of space in the BOA and reallocation of space within the Courthouse; 2) Direct staff to implement Phase One through currently available funding.

The Board directed staff to prepare an agenda item regarding the funding deficit, as it relates to Option #2 (listed above) for the October 26, 2004 meeting.

Commissioner Proctor indicated that the Courthouse was not user-friendly and suggested that the County Commission offices and chambers be moved to the BOA building.

The motion on the floor carried unanimously, 6/0 (Commissioner Winchester was out of Chambers).

22. Acceptance of Status Report on the Ownership and Maintenance of the Stormwater Pond in Foxcroft Subdivision

County Attorney Thiele explained that at the September 14, 2004 Board meeting, staff was directed to bring back a report on the ownership of the stormwater pond in the Foxcroft Subdivision, located in the City of Tallahassee. He reported that the plat was approved and accepted by the City Commission (not the County Commission) and then annexed. Mr. Thiele advised that the plat document is not a conveyance of title to property and the title to the underlying fee interest remains (as best determined) with the original developer, Millard Noblin and his corporation. He stated that the manner by which this development was approved is contrary to the way the Board does it. If it is a publicly dedicated stormwater facility built in accordance with current standards, it has been the Board's policy to accept and immediately commence maintenance; the City has apparently refused to do that.

Commissioner Grippa wanted to know how to get the City to take ownership of the pond and noted that it is a filthy mess and drains into Lake Lafayette. The issue was brought to the City's attention in November 2002.

County Administrator Alam explained that the Chairman brought the issue up at the Mayor/Chair meeting and the Mayor indicated that the City would look into it and decide if the City would take over the maintenance.

Commissioner Grippa suggested that a signed copy of the plat and letter from the Mayor be brought back to the City and ask them what can be done to get them to take ownership since it is a water quality issue. Chairman Sauls advised that this was requested during the Mayor/Chair meeting. County Administrator stated that he would talk with the City Manager on the issue and provide a status to the Board in memo form.

Commissioner Grippa moved, duly seconded by Commissioner Thael and carried unanimously, 6/0 (Commissioner Winchester was out of the Chambers) to approve Option 1, as amended: 1) Accept the report regarding ownership and maintenance responsibility for the Foxcroft stormwater pond, and that the County Administrator speak with the City

Manager on the issue and follow up with a status report to the Board, by memorandum form.

23. Approval of Grant Contracts with the Florida Communities Trust (FCT) for the Acquisition of Patty Sink, Copeland Sink, and Upper Lake Lafayette

This item requests Board approval of the grant contracts with the Florida Communities Trust for Acquisition of Patty Sink, Copeland Sink and Upper Lake Lafayette. The Contracts define the procedures, requirements and responsibilities of Leon County and FCT (Florida Communities Trust), to jointly acquire these properties.

County Administrator explained that Patty Sink and Copeland Sink are part of the Blueprint 2000 program and the matching dollars would come from that. The City would have to provide matching dollars for Upper Lake Lafayette.

Commissioner Proctor moved and was duly seconded by Commissioner Maloy to approve Options 1 and 2: 1) Approve grant contracts with the Florida Communities Trust for the acquisition of Patty Sink, Copeland Sink and Upper Lake Lafayette and authorize the Chairman to execute; 2) Direct Blueprint 2000 to proceed with the acquisition of Patty Sink and Copeland Sink with reimbursement from the Florida Communities Trust.

Craig Diamond, Planning Department, explained that funds were set aside for acquisition of passive flood plain properties throughout the map set region and the sensitive lands Committee worked on this and identified the two parcels.

The motion carried unanimously, 6/0 (Commissioner Winchester was out of the Chambers).

24. Acceptance of Report on Establishment of a Campaign Finance Task Force

This agenda item requests Board acceptance of staff's report regarding the establishment of a Campaign Finance Task Force for Leon County.

On June 8, 2004, a group called "Steering Committee to Amend the Leon County Charter" submitted a proposed ordinance to the Board for consideration. If approved the measure would have been placed before the voters on the November 2004 Election. The proposed ordinance would have substantially amended Leon County's Charter by limiting campaign contributions; create a "Clean Elections Board," defined "eligible contributor" to campaigns, required non-partisan elections for

constitutional officers, and enforce penalties by code inspectors. At that time, the Board moved to establish a Campaign Finance Task Force.

It was the County Attorney's position that state law substantially addresses campaign financing and that municipal regulation of same is preempted by state law. He recommended that the types of electoral process modifications recommended by the Committee, through adoption of an ordinance amending the Charter, were either preempted by, or were redundant to, existing state law and regulation.

Commissioner Thael moved, duly seconded by Commissioner Rackleff and carried 5 – 1 (Commissioner Grippa voted in opposition and Commissioner Winchester was out of Chambers), to approve Option 1: Accept the staff report and take no further action on establishment of a Campaign Finance Task Force at this time.

25. Acceptance of Staff's Report on the Process to Procure a New 9-1-1 System for Leon County and a Request for Board approval to Extend Existing 9-1-1 Contract with Sprint for Six Months and Direct the County Administrator to Negotiate "Best and Final" Offer with the Top Three RFP Respondents as Ranked by the RFP Evaluation Committee (CML/AK Associates, Sprint/Positron, and TDS/TCI)

This agenda item provides information to the Board on the recent activities to procure a new 9-1-1 system for Leon County. This item requests that the Board approve a period up to a six-month extension for existing 9-1-1

Commissioner Grippa suggested that staff has not done the analysis necessary to select a provider and if Sprint cannot allow more time to conduct an analysis, then the County should not do business with them. He suggested that a workshop be conducted.

Commissioner Proctor talked indicated the importance of discussing the MBE participation level at the workshop. He wanted to know why Sprint was laying off workers and what was their corporate commitment to this county.

Commissioner Grippa moved and was duly seconded by Commissioner Proctor to not select Sprint and conduct a workshop on October 26, 2004, 12:30 p.m. – 2:30 p.m., to discuss how the system would work, and if an extension cannot be worked out by the next meeting, then an emergency action plan would have to be developed. Staff was directed to invite the three top ranked firms (CML/AK Associates, Sprint/Positron, and TDS/TCI) to make a presentation at the Workshop.

County Administrator Alam explained that Sprint attempted to work out an agreement and they agreed to a 9-month extension which would cost the County approximately \$50,000 - \$58,000 per month. Mr. Alam stated that the technical issues could be discussed at the workshop.

The motion carried unanimously, 6/0 (Commissioner Winchester was not present).

26. Expirations, Vacancies, and Appointments to Boards and Committees

Chaires-Capitola Recreation Council: Commissioner Proctor appointed Pamela Hunter.

Fort Braden Community Center Board of Directors: Commissioner Thaeli continued his appointment.

Parks and Recreation Advisory Team: Commissioners Proctor and Sauls continued their appointments. Commissioner Thaeli appointed Alfred Bea.

Research and Development Authority (Innovation Park): Commissioner Thaeli moved, duly seconded by Commissioner Grippa and carried unanimously, 6/0 (Commissioner Winchester was out of Chambers), to appoint Michael Coburn. Commissioner Proctor moved, duly seconded by Commissioner Thaeli and carried unanimously, 6/0 (Commissioner Winchester was out of Chambers), to reappoint Ray Eaton.

Chairman Sauls requested a presentation by the Research and Development Director, Linda Nichol森, be agendaed for October 26, 2004.

Commissioner Rackleff stated that that he has a vacancy on the Educational Facilities Authority and would appoint Wendy Grey.

The Board then entered discussion regarding Item 44.

Public Hearings, 6:00 p.m.

27. Second Public Hearing on a Rezoning Application on Property Owned by Leon County Located at the Southwest Corner of the Intersection of Buck Lake Road and Baum Road, from Rural to Open Space

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Thaeli moved and was duly seconded by Commissioner Winchester to approve Option 1: Conduct the second and final public hearing and adopt the attached Leon County Ordinance Number 04-26

amending the Official Zoning Map to change the zoning of 426 acres from the Rural zoning district to the OS Open Space zoning district based upon the findings of fact and conclusions of law as set forth herein.

The motion carried unanimously, 4/0 (Commissioners Maloy, Thael and Winchester were out of Chambers).

28. Second Public Hearing on a Rezoning Application on Property Owned by George Bell, Located on the South side of Tram Road, East of Fitz Lane, from Rural to Urban Fringe

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Thael moved and was duly seconded by Commissioner Rackleff to approve Option 1: Conduct the second and final public hearing and adopt the attached Leon County Number 04-27 amending the Official Zoning Map, to change the zoning of 28.38 acres from the Rural zoning district to the Urban Fringe zoning district, based upon the findings of the Board set forth herein.

The motion carried unanimously, 5/0 (Commissioner Grippa and Maloy were out of Chambers).

29. Second Public Hearing on a Rezoning Application on Property Owned by Todd Sperry, Located on the South Side of Tower Road Adjacent to the Railroad Track, from Industrial to R-3 Single- and Two-Family Residential

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Thael moved and was duly seconded by Commissioner Rackleff to approve Option 1: Conduct the second and final public hearing and adopt the attached Leon County Ordinance Number 04-28 amending the Official Zoning Map to change the zoning of 41.88 acres from the Industrial zoning district to the R-3 Single and Two Family residential zoning district based on the findings of fact and conclusions of law set forth herein.

The motion carried unanimously, 5/0 (Commissioners Grippa and Maloy were out of Chambers).

30. Continuation of the First of Two Public Hearings on a Proposes Ordinance Amending the Land Development Regulations to Delete "Commercial Sports" as a Permitted Use in the Urban Fringe and Lake Talquin Recreation Urban Fringe Zoning Districts

Commissioner Thael moved, seconded by Commissioner Rackleff to approve Options 1 and 2: 1) Conduct the first of two public hearings on a proposed ordinance amending the Land Development Regulations to delete "commercial sports" as a permitted use in the Urban Fringe and Lake Talquin Recreation Urban Fringe zoning districts; 2) Schedule the second and final public hearing on Tuesday, October 26, 2004.

The motion carried unanimously, 5/0 (Commissioners Grippa and Maloy were out of Chambers.)

Commissioner Thael requested that staff draft a separate ordinance to delete language in the definition of "active recreation" regarding amusement parks.

31. Continuation of a First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map, Rezoning Approximately 8.9 Acres, Located on the Western End of Dome Level Road, from R-1 Single Family Detached Residential to R-3 Single Family Detached, Attached and Two-Family Residential

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Grippa moved, duly seconded by Commissioner Rackleff and carried unanimously, 7/0, to approve Option 1: Conduct the first and only public hearing and adopt the attached Leon County Ordinance Number 04-29 amending the Official Zoning Map from the R-1 district to the R-3 district, for approximately 8.9 acres of land located on the western end of Dome Level Road, based upon the findings and recommendations of the Planning Commission as set out in this agenda item:

32. Continuation of a First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map, Rezoning Approximately 36.8 Acres of Land Adjoining the CSX Railway 400 Feet East of Barineau Road, from R-1 Single Family Detached Residential to R-3 Single Family Detached, attached and Two Family Residential

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Thael moved, duly seconded by Commissioner Maloy and carried unanimously, 7/0, to approve Option 1: Conduct the first and only public hearing and adopt the attached Leon County Ordinance Number 04-30 amending the Official Zoning Map to the R-1 district to the R-3 district, for approximately 36.8 acres of land adjoining the CSX Railway, approximately 400 feet east of Barineau Road, based upon the findings and recommendation of the Planning Commission as set out in this agenda item.

33. Continuation of a First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map Rezoning Approximately 107-acre Parcel, Located on the West Side of North Monroe Street, on the East Side of Old Bainbridge Road and North of Perkins Road, from Lake Protection to the PUD Zoning District

Pursuant to legal advertisement, a public hearing was conducted.

The Board engaged in discussion about Commissioners seeking individual advice from the County Attorney on this issue, and the County Attorney advocating certain positions. Commissioner Grippa stated that it was the County Attorney's job to opine as it relates to legal arguments and not to advocate one side or another. He suggested that a workshop be conducted to define a certain protocol on what advice the County Attorney is allowed or not allowed to provide, and that it was inappropriate for commissioners to ask legal staff to craft an argument against its own legal opinion.

County Attorney Thiele responded that any opinion by his office is labeled as such and is executed by him and is distributed to every member of the Board. He also explained that Commissioners have requested that documents be prepared that were contrary to the staff recommendation and this places his office in an untenable situation.

Chairman Sauls explained that she was attempting to get some answers and wanted to know if one basin were changed from being an open basin to a closed basin, could the Board grant the PUD. Mr. Thiele explained that the Board could approve it; provided that they believe that those changed circumstances and conditions have been adequately addressed; the adequacy of that is the issue for the legislative determination.

Commissioner Winchester voiced concern regarding the process and stated that certain things occurred that are unexplainable: The DRC committee approved this after a letter was written by staff and Clay Caruthers requested that this be denied and listed 37 reasons for that. The next day another memo was written recommending approval with conditions. Commissioner Winchester stated that there appears to be a lot of pushing behind the scenes to get CRA approval. He also opined that the DRC recommended approval based on erroneous information.

The following citizens appeared:

J. Lee Vause, P. O. Box 1236, appeared before the Board and explained that he is a consultant engaged by Arbor Properties to represent them on this issue. He gave various reasons for supporting the PUD and provided responses to opposing issues:

- Bad traffic impact – the traffic impact of a new McDonalds' would produce about the same traffic impact
- Bad for Lake Jackson after spending \$20 million dollars for restoration - the developer is very interested in preserving Lake Jackson; it is a closed basin; Negative comments have been made about the berm. Mr. Vause stated the issue is what is the best course of action for the lake and advised that DEP has issued a citation alleging that an illegal berm has been put on the property and ordered that it be removed; the owner has not responded and they have a time certain to do so and they may object to the DEP determination. The process allows science to be applied, which will determine if it is best to leave the berm or remove it. The developer will remove it if it is determined that it is best for the lake to do so.
- It was alleged that the Canopy road would be adversely affected. Mr. Vause responded that there is not a lot of canopy in the area since it was agricultural use at some time and the vegetation ends at the fence line. The developer has committed to produce a canopy zone in the area.
- This type of development was contemplated by adoption of the Comp Plan. It promotes development within the urban area, it is in the USA and within Capital Circle; urban infill dense development suggested and required by the Comp Plan; the development is a mix of housing types;
- Some of the finest neighborhoods in the community have been developed into high-density town houses and are compatible with the area. Mr. Vause cited examples such as Country Club and Betton Hills.
- Mr. Vause stated that a legal opinion advised the commission that this area was not appropriate for development and should be denied based on a finding that if any part of the development was not a closed basin, it rendered the rest of the development ineligible for the type of development being proposed. He pointed out that the developer has spent over \$200,000 and 17 months, working this matter with the Planning Commission, Planning staff and GEM to get here tonight. Commissioner Vause stated that at a minimum, the developer should be afforded the opportunity to deal with the impact of the memorandum that was referenced.

Commissioner Proctor moved, duly seconded by Commissioner Grippa and carried 6 – 1 (Commissioner Winchester voted in opposition), to limit speakers to 3 minutes each except for a spokesperson representing each side would be allowed six minutes.

Andrew Byrne, representing Arbor Properties, explained that he is registered as a lobbyist with the Clerk's Office and pointed out that the

PUD was consistent with the Comp Plan. He stated that it was similar to Southwood and other areas where there is a mixture of apartments and single-family dwellings. He explained that years ago a berm was built and regardless of whether DEP wants the berm removed or not, his client is prepared to proceed with the project. Mr. Byrne further added that the patriarch trees and green spaces will be protected and the project will adhere to regulations and be an attractive development.

Charles Gardner, 1300 Thomaswood Drive, representing the seller, Mary Sellers, appeared and explained that the family closed up an area, which staff concluded was good for the lake.

Paul Earnhart, P. O. Box, 3210, stated that at present time, no water from this property goes to Lake Jackson and some \$20 million has been spent for this purpose. He explained that this would be a quality project.

John Kraynak responded to the Board's inquiries and explained that Lake Jackson gets water from the impervious areas built in the county through stormwater treatment systems that are built for new developments and from rainwater. He also pointed out that the berm improved the water quality of Lake Jackson. He pointed out the berm was installed without a permit, a notice of violation was issued and additional information was received. By putting the berm back in, it is holding water, which provides additional improvement.

Commissioner Winchester stated that it also creates a closed basin where there was an open one, which allows the developer more intense development under lake protection mixed-use land use category.

Gary Johnson, GEM, clarified that an illegal action occurred with placement of the berm, after further review and notice of violation was sent; staff made an evaluation of the benefit that it would be to Lake Jackson

Gary Lloyd, 1922 Mallory Square, Big Bend Sierra Club, distributed a letter and highlighted some items: They oppose any access to Old Bainbridge Road which is a canopy road; this is not the definition of infill as he knows it. The error in the southeast portion is very low and he can see water running across Monroe Street from the development. He was concerned that the property would be downgraded; he supported mixed use but only at an appropriate site, and not in lake protection.

Laura Bevan, 2936 Joyce Drive, expressed opposition to the development, which could result in pollution of Lake Jackson.

Bruce Ryan, 1932 Queenswood Drive, was opposed to the development in this location and wanted the area to remain lake protection; the proposal includes up to 13 three-story apartment buildings (312 units), 175 homes and 120,000 sq. ft of commercial retail space. Mr. Ryan stated that the current zoning also allows 53 single-family homes and 10,000 feet of office space. He urged the Board to deny the request.

Ellie Whitney, 745 Hunter Street, stated she has had to make her small business conform to certain restrictions to protect the lake and she requests that the County ensure that the developer adhere to the same protections, and that the system be environmentally sound.

Olin Grantham, 2600 Lucerne Drive, stated that he is speaking in favor of this subdivision and stated that the northwest area needs a nice development. He also explained that he is involved in the design of at least 62 homes in the subject area.

Julia Bauson, 4120 White Pine Court, supports the development and would like to live in the Lake Jackson area.

Kristina Dougherty, 3910 Cates Avenue, voiced supports for the PUD.

Stacy Bodiford, 3509 Torrington Way, supported the project and paraphrased a statement submitted by Jason Black, who had to leave. He supported the project and felt that affordable housing was needed in the area.

Sarah Childers, 1521 Rankin Avenue, supported the development and felt it would be a good, safe, family neighborhood.

Matt Aresco, 754 Livingston Court, President of Friends of Lake Jackson and biologist, expressed opposition to the proposed subdivision and voiced concern about the overall impacts of Lake Jackson. He also indicated concern regarding the review process and felt that staff was incorrectly interpreting the special development zone provisions. Mr. Aresco stated that the Board is being asked to vary the environmental impact analysis while there is no approved environmental impact analysis for this project. Mr. Aresco stated that the aquatic preserve manager for Lake Jackson issued a memo to the enforcement section of DEP stating that the lake would be better off if the berm were removed and in that case, it would be a jurisdictional wetland which cannot be modified for stormwater.

Tyler Macmillan, 741 Litchfield, explained that he was previously involved in restoration of Lake Jackson for a public agency, but he is speaking tonight as a citizen. He pointed out that it was not appropriate for

development of the subject property of high density against urban service boundary, but that it should be brought in the city gradually and have lower density development. He further added that the area is for single family and should remain so. Mr. Macmillan spoke briefly on lake protection and the closed basin issue in the Comp Plan.

Keli Thorn, 2750 Old St. Augustine Road, spoke in favor of the project and stated that she would like to live in the area where there are good schools.

Lilly Thames, 199 Mill Branch Road, appeared and indicated support for the project. She advised that she worked for Arbor Services and if the Board votes in favor of the project, her daily job daily would be to ensure that it is kept green, clean, and secure.

Bill Calvin, 1918 Longview Drive, reminded the Board they are stewards of the land and should make good decisions. He indicated that some decision make in the past are not good one. He opposed the project and urged the Board to not allow development in the flood zone and near the lake.

Kate Calvin, 1918 Longview Drive, voiced concern about allowing construction in the lake protection zone and the need for protecting animals, and urged the Board to deny the request.

Tom Nelson, 3642 Doris Drive, yielded his time to speak to Ms. McGrath.

Nancy McGrath, 3022 Southside Circle, gave some background history of the subject area using an overhead map. She expressed opposition to the proposed development and emphasized the need for protecting the waterbody particularly since the community has invested in its protection through various City, County, federal dollars, and grants over the decades.

Nathan Perry, 1879 Miller Landing Land, stated that he attended the preliminary hearing where they indicated that the berm had been built long ago for agricultural purposes. Some people indicated that the berm had been recently built, which created a closed basin. He voiced objection to the proposed development and indicated the need for lake protection.

Eric Ferguson, 1767 Heritage Blvd, #4204, was called to speak but he had already left the meeting.

Sheila Muniz, 600 Victory Garden Dr. #N116, stated that there were not many nice apartment complexes in town and with the economic growth in the next five years, affordable housing is needed. She urged the Board to support the development and allow Arbor Services to build.

Aleah Mathews, 1821 Tallavana Trail, stated that she supports affordable housing and requested that the Board allow construction in the subject area.

Marisol Rodriquez, 925 E. Magnolia Dr. Apt. G8, voiced support for the project and stated that other people would like to enjoy the amenities of the lake.

David Loe, 3271 Skyview Drive, stated that he lives 100 feet from the subject area but plans to move in the new area if it is approved. He indicated support for the project and pointed out that new developments are needed in the area.

April Killian, 2750 Old St. Augustine Road, stated that she plans to move to the Lake Jackson area and hopes the Board will support Arbor Properties.

Danielle Stauss, 600 Victory Garden, M107, urged the Board to support the project and indicated that she plans to move to the Lake Jackson Area.

Jeff Phipps, 500 Orchard Pond Road, stated that his family has lived in the area for many years and have made many sacrifices to protect the lake. He objected to the proposal and pointed out that it likely there will be flooding on his property due to the construction, which might constitute "a taking."

Mike Brezin, 1401 N. Randolph Circle, council member with Heart of the Earth, showed some slides and focused discussion on problems of open space and tree preservation. He stated that he attended the DEP meeting and it was determined that the berm was not put in for agricultural purpose, but was pre-development activity and would have to be removed. He also spoke about lake protection and the need to protect patriarch live oak trees and stated that a variance to the environment impact assessment should not be granted to the developer.

Ann Bidlingmaier, 1920 Harriet Drive, indicated opposition to the proposed development and spoke about the intensity of the development in the lake basin.

Donna Legare, 2239 Ellicott Drive, voiced opposition to the development and stated that lake preservation designation should remain.

Ann Morrow, 1968 Lawson Road, spoke about lake protection zone and voiced complaint that the proposed development was too close to the lake and would cause adverse affects. She opposed the rezoning.

Some citizens who supported the project talked about affordable housing for students.

Nan Hillis, 1483 St. Charles Place, stated that Tallahassee is a growing community and Arbor Properties appears to be a quality development and noted that economic growth is inevitable.

Becky Subrahmanyam, 1257 Cornerstone Lane, voiced opposition to the plan and used the overhead to show the map of the area. She spoke about the legal issues and stated that sometimes the Comprehensive Plan conflicts with the Code. She talked about the land use element and lake protection zone category and referred to the matrix.

The Chairman called on Esmeralda Plata of 8452 Sandlehoop Drive and Stephanie Goodman of 1630 Baulkin Road, but they had already left the meeting.

Andrew Tiedt, 1630 Falkin Road, voiced support for the PUD.

James Clark, 9187 Ledger Lane, supported the project and stated that there are not many beautiful apartment complexes and this one looks promising.

Maria Corena, 8452 Sandalwood Drive, stated that she supported the development.

Ben Fusaro, 203 Ridgeland, read into the record a letter from Leon County Development Services Administrator urging the Board to retain lake protection zone status. The letter noted that the County has spent millions of dollars for lake restoration and it does not appear to be fiscally or environmentally responsible to downzone the property. The letter was sent by Tallahassee Scientific Society, a group of engineers and scientists.

Joanne Kowal, 4871 Old Bainbridge Road, indicated opposition to the rezoning and noted the increased traffic that would be put on Old Bainbridge Road and North Monroe if the proposed PUD development is allowed and suggested that it had not met concurrency standards.

Valentin Pelayo, 2003 Gardenbrook W, stated that he supports the project because it will provide apartment housing for residents, which are needed.

Jim Kavanaugh, 3950 Bellac Road, voiced opposition to the project and referenced building regulations since the proposed three story apartments next to single family homes was not appropriate. He also referenced a

State Supreme Court case where demolition of an apartment complex was ordered because it violated building regulations and was not compatible with existing housing.

Daniel V. Collins, 2750 Old St. Augustine Road, supported the project and stated that Arbor Properties maintains and manages properties well.

Patrick Mullen, 2750 Old St. Augustine Road, supported the project and Arbor Properties because it provides citizens an opportunity to live in a better area.

Barry Bryant, 929 Piney Z Plantation Road, supported the project.

Stan Derzypolski, 4345 Jackson View Drive, stated that he is a developer and has concerns about the density and increased traffic to Old Bainbridge Road which would add approximately 2,000 cars a day on US S. 27 which drains into Lake Jackson. He also wanted to see more green space incorporated in the project and urged the Board to look into expanding the USA.

Tony Kelly, 3200 Lakeshore Drive, stated that he is a small business owner in the area. He stated that he does want to bring revenue and jobs to the area but he is concerned with environmental issues and wants the lake to be protected. He stated that he is hearing that the developer wants to meet all the requirements and in compliance with environmental issues and is the type of development that Tallahassee needs.

Solomon Lewis, 2750 Old St. Augustine Road, stated that he supports the development and hopes to live in one of the homes.

Charles Frazier, 4465 Cool Emerald Drive, stated that his office is located approximately 10 feet from Lake Jackson and indicated that the challenge is to fund urban sprawl or to allow density. Mr. Frazier pointed out that the issue is to balance the inevitable growth that will occur and determine the consequences if growth is not balanced and to make a decision based on facts rather than emotions.

Norene Chase, 405 Castleton Circle, pointed out that the development proposes 152 single family, 312 multi family, and commercial which will adversely impact the roadway and will not meet traffic concurrency. Ms. Chase urged the Board to not make a hasty decision on development in the Lake Jackson drainage basin since it could cause pollution to the lake.

Reginald Davis, 4978 Matt Wing Court, appeared and read into the record a letter from Dr. Anthony Viegbesie, 2543 Whisper Way (who left the meeting earlier), on behalf of the President of Tallahassee Branch of the

NAACP, Charles Evans, to express some concerns regarding the possible denial of the Summerwood Subdivision. The letter referred to the multi-family affordable housing in Summerwood and urged the Board to carefully avoid any action that could be perceived as exclusionary, discriminatory and biased of socio-economic background.

Tyler Woodall, 4414 Buttercup Way, appeared in opposition to the proposed development in the Lake Jackson Are. He is disturbed that environmental regulations would be ignored by developers and that the County would allow it to occur. Mr. Woodall stated that there are other places that would be appropriate for development.

Brittany Wilson, 1123 Alachua Avenue, stated that she was going to finish information that was referred to by Becky Subramanyam, and referred to an overhead map. Ms. Wilson talked about the elevation of the area and stated that the proposed development would exceed what is required under the Code. She voiced concern about the motives of commissioners who would vote in favor of the proposal.

John Mader, 3608 Westmorland Drive, stated that he owns a business and a condominium across the street from the proposed development and supports the development. He stated that the proposal is within the urban services area, will raise property values since it is a planned community, and will be a beautiful area to live. Mr. Mader remarked that banks and retail services are needed to provide services in the area.

Jack Heron, 15210 Mahan Drive, expressed opposed to the development. He voiced concern that some people who spoke in favor of the development do not even live in the area or know where it is. He urged the Board to vote it down or to at least delay it long enough to review the process to ensure that it complies with the Comp Plan.

Sherward Gomillion, 4527 Camden Road, appeared and expressed opposition to the development. He referred to the excessive traffic on Old Bainbridge Road, which would be exacerbated by the development. He opposed the development because of the density of homes and apartments and would not object to a more suitable number of buildings.

Paul Sullivan, 3053 Hawks Glen, expressed opposition to the Summerwood Development, and stated that he was in favor of Summerwood Development since it would lead to over a \$50 million capital impact to Leon County. He pointed out that the City and County have agreed that urban infill with higher density in the urban service area is desirable - it would provide jobs and different housing options, which are affordable.

Lee Vause spoke again and stated that planned unit development (PUD) is the only type of zoning in which the County can grant a contract where the fine points are dealt with. He remarked that when a quality development is denied in an environment where confusion reigns, it sends a terrible signal to a developer who contemplates a PUD development. Mr. Vause asked the Board to delay the decision and allow time to respond to various comments made.

Tyler Macmillan spoke again and pointed out that he is concerned about taxpayers' dollars and referred to the situation, which involved Bradfordville where the community was divisive and the Comp Plan was not adhered to. He felt that the Comp Plan was not being followed in this instance, also. Mr. Macmillan spoke about a memorandum from staff suggesting that a variance could take it to this point; he wanted to know if this met the hardship test required for a variance. Mr. Macmillan stated that the matter was confusing and he did not know if this was a variance from the process and pointed out that the analysis in the agenda request did not indicate a variance. He also mentioned that at every step of the process, staff advised the developer that there were problems and the designers should have addressed the issues that they were told to address.

County Attorney Thiele referenced an email from John Kraynak, GEM, and the LDR Sec. 10.346(a) which involves a requirement for environmental impact analysis (EIA). Mr. Thiele pointed out that staff is not requesting a variance or waiver from the EIA but it is a designation that staff will require it, but it will be required at the time of plan approval.

Commissioner Winchester stated that at some point, the process was flawed, perhaps in the development review, and the issue really is whether lake protection should remain to be lake protection designation. He stated that it is a good project but in the wrong location.

Commissioner Winchester moved and was duly seconded by Commissioner Rackleff to approve Option 4: Conduct the public hearing and do not adopt the proposed ordinance amending the official zoning map pertaining to lake protection zoning district based on the findings made on the record at the public hearing; public testimony and written testimony, some in the agenda item and others presented by citizens, specifically a memorandum from George E. Lewis (who could not attend tonight), dated October 8, 2004, to the County Attorney (which talks about Zone A and Zone B issues where limited development is allowed).

County Attorney Thiele stated that for the record, that the attached email from John Kraynak, GEM, was sent to the Board, today October 12, 2004, at 10:27 a.m.

Commissioner Rackleff noted that the PUD allows up to 120,000 sq. ft. of commercial space which would result in some 500 parking places, 1,000 housing units (15 acres of parking) and additional street pavement and impervious surface of buildings; it would result in too much water that would wind up in Lake Jackson.

Commissioner Grippa stated that it appears to be a threshold issue and he feels that the apartments are the real issue and indicated the importance of dealing with issues upfront based on facts. There was discussion regarding the density and the closed and open basins. Mr. Tedder responded to inquiries and explained the canopy measures to be taken with the proposed PUD and densities allowed.

Commissioner Grippa moved a substitute motion, duly seconded by Commissioner Proctor to approve the PUD for the first and second basin (closed basins, which do not affect the lake), and the third basin PUD (a open basin) not be approved until it meets every lake protection standard, and comes back to this Board for final site plan approval, and that this item be on the agenda at the next Board meeting, October 26th, but not for public discussion; and in the interim, a designated Commissioner would

meet with the both parties in attempt to reach a compromise; and approve the conditions reached by staff and the Planning Commission.

Commissioner Thael indicated that the Board does not have the authority to allow a variance from the requirement that an environmental impact analysis be done on this property; if this conceptual PUD were approved, it would be difficult for the Board to turn down the final site and development plan.

Com Winchester talked about how the process was flawed and how Commissioners were given different information. He felt that the motion on the table could cost the County millions of dollars in lawsuits and referenced historical cases resulting in a lawsuit.

County Attorney Thiele explained that the issue for the Board's consideration (unlike another rezoning where there is flexibility within the range of the densities that are allowable) in the PUD, staff can specify the number of units that are permissible. Then when they go to site plan, assuming the PUD is approved, the issue will not be density but configuration of the property.

Mr. Thiele advised that DEP has verbally informed the property owners that they are going to issue an order that requires removal of the berm but not such order has come out since they announced that two weeks ago.

Commissioner Proctor voiced concern that the NAACP commented on the issue and he wanted assurance that this does not involve a race or class issue as it relates to the proposed PUD and affordable apartments.

Commissioner Proctor withdrew his second to the substitute motion and moved a substitute motion, seconded by Commissioner Winchester, to obtain an independent legal opinion (including pros and cons of the PUD, ensure that every requirement is met) and have Commissioner Winchester meet with the developer and talk about affordable apartments, and that it be brought back to the Board on October 26, 2004.

It was noted that Commissioners are not to contact the County Attorney regarding this issue and the public hearing portion of the public hearing is now closed. Board discussion is continued to October 26 and a legal opinion will be provided at that time.

Mr. Thiele stated that the document that has been floating around is not the County Attorney's position or opinion; it was written to assist one or more Commissioners in what he deemed to be "any staff person helping write a "my view" article; it was to advocate a position by the author of that

opinion and to put it in legalese and zoning and Comp Plan related citations."

Chairman Sauls inquired about the road cut on the Canopy Road. Gary Johnson, GEM, stated that staff recommended the cut because of emergency vehicles. He stated that if the Board does not approve the canopy cut it could impact the entire development.

Gary McDevitt stated that the Planning Department recommended allowing a canopy cut similar to the Winchester Oaks PUD approval, which was an emergency access. It would basically be used for emergency access, "secondary limited access." Mr. McDevitt explained that if the canopy road connection is not approved as part of this concept plan, it would require some major redesign of the project and this was extensively discussed during the planning process.

Chairman Sauls voiced concern that if the PUD is not approved then the property would be sold and "piecemeal" zoning would occur.

Mr. Thiele stated that it not be easy to find an outside law firm willing to review the PUD material and knowledgeable with the Comp Plan by the time the agenda is published for the October 26th meeting.

Commissioner Grippa moved, duly seconded by Commissioner Thaell and carried unanimously 7/0, to extend the Board to Midnight.

Commissioner Grippa stated that the law firm would need to tell the Board if it is consistent with the Comp Plan and whether the Board is following procedure and should render the Board an opinion. He stated that the lawyer should be advised that there should not be any contact with commissioners or staff or anyone from either side of the issue.

The motion carried 4 – 3 (Commissioners Thaell, Winchester, and Rackleff voted in opposition).

Commissioner Proctor moved, duly seconded by Commissioner Maloy and carried unanimously, 6/0 (Commissioner Thaell out of Chambers), to reconsider the substitute motion.

Commissioner Proctor moved, duly seconded by Maloy and carried unanimously, 7/0, to reopen the public hearing and continue the public hearing and Commission discussion to October 26, 2004 at 6:00 p.m. in the County Commission Chambers. If Commissioners receive calls or correspondence (email, letters), they should make note and present them at the October 26, 2004 meeting.

34. Continuation of a First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map Rezoning Approximately 976 Acres, Located at the Northwest Corner of Centerville Road and Pisgah Church Road from Urban Fringe and Rural to PUD Zoning District

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Grippa moved and was duly seconded by Commissioner Maloy to approve Options 1, 2, and 3 (as amended): 1) Conduct the first and only public hearing and adopt the attached Leon County Ordinance Number 04- amending the official zoning map to change the zoning of approximately 976 acres from Urban Fringe and Rural zoning districts to the PUD zoning district, based upon the findings and recommendations of the Planning Commission as set forth in the agenda item; 2) Adopt the applicant's proposed concept plan, subject to the conditions recommended by the Planning Commission, based upon the findings and recommendation of the Planning Commission as set forth in this agenda item; 3) (As amended) approve the paving (with OGCM) of Pisgah Church Road by the developer, if the required traffic analysis dictates the need for paving.

Charles Gardner appeared representing the applicant and was present to respond to the Board's inquiries.

Brett Brantley, stated that he was available if the Board had inquiries.

Pam Hall, 5051 Quail Valley, representing the Centerville Road Community Association, stated that she and others have worked extensively on the development. There will be a study of traffic impacts on Pisgah Road and CIRCA signed an agreement with the County and Pisgah Church Road was designated a rural road. She requested that the agreement be followed and all the residents participate in the process.

The motion carried unanimously, 5/0 (Commissioners Winchester and Grippa out of Chambers). See attached Leon County Ordinance Number 04-31:

35. Continuation of a First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map Rezoning Approximately 1.4 Acres, Located at 3618 North Monroe Street, Opposite Spaulding Road and Abutting the Eastern End of Casa Linda Court, from Medium Density Residential to office Residential

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Thael moved and was duly seconded by Commissioner Maloy to approve Option 1: Conduct the first and only public hearing and adopt the attached Leon County Ordinance Number 04-32, amending the Official Zoning Map from MR-1 district to the OR-2 district, for approximately 1.4 acres of land located at 3618 North Monroe Street, with conditions recommended by the City of Tallahassee Development Review Committee, based upon the findings and recommendation of the Planning Commission as set out in this agenda item. The motion carried unanimously, 5/0 (Commissioners Grippa and Winchester out of Chambers).

Wayne Tedder, Planning Department Direction, requested that the application fee be waived due to a glitch that occurred in 1997 (during site specific zoning).

Commissioner Thael moved, duly seconded by Commissioner Maloy and carried unanimously, 4/0 (Commissioners Grippa, Sauls, and Winchester were out of Chambers), to waive the \$250 application fee.

36. Continuation of a First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map Rezoning 4.28 Acres, Located at the Northwest Corner of Woodville Highway and Lawhon Road from R-1 Single Family Detached Residential to Woodville Commercial

Pursuant to legal advertisement, a public hearing was conducted.

Russell Large, 2840 Remington Green Circle, L & W Engineering, appeared representing the applicant, Southwest Georgia Oil, stated that the proposed rezoning is to correct a rezoning that has dual zoning. The proposed use for the front of the property is a diner or waffle house type business.

Commissioner Maloy moved, duly seconded by Commissioner Rackleff and carried unanimously, 4/0 (Commissioners Grippa, Sauls, and Winchester were out of the Chambers), to approve staff's recommendation, Option 1: Conduct the first and only public hearing and do not adopt the proposed ordinance as written, but amend the Ordinance to reduce the request area, and amend the Official Zoning Map to change the zone classification from WC (Woodville Commercial) and R01 (Single Family Detached Residential) to WC (Woodville Commercial), based upon the Planning Commission's findings set forth in this agenda item. See attached Leon County Ordinance Number 04-33:

37. Continuation of a First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map Rezoning 6.07 Acres, Located off of Mt. Sinai Road Approximately 2,200 feet North of Apalachee Parkway, from

R-1 Single Family Detached residential to R-4 Single-, Two-, and Multi-Family Residential

Pursuant to legal advertisement, a public hearing was conducted.

The following speakers appeared:

Willie Wiggins, 1293 Mt. Sinai Road, indicated support for the Planning Commission's recommendation, which is to deny the rezoning. He stated that the residents are a closed net family and he was concerned about additional traffic with children in the area.

Dawn-Shey Gilmore, 1106 Mt. Sinai Road, stated that she opposes the rezoning, that the property has been in the family for over 100 years and they would like to keep it that way. She voiced opposition to easements to rental property and additional traffic as a result of the rezoning.

Johnny Petrandis, 4178 Apalachee Parkway, appeared and stated that he does have easement to the property on the east side, Mt. Sinai is a public road and he plans to build single family on the site if the rezoning is approved.

Commissioner Rackleff stated that the agenda material shows that the applicant does not have easements for access and staff recommendation is denial of the rezoning.

Commissioner Rackleff moved, duly seconded by Commissioner Proctor and carried unanimously, 4/0 (Commissioners Grippa, Sauls, and Winchester were out of the Chambers), to approve Option 1: Conduct the first and only public hearing and do not adopt the proposed ordinance, retaining the existing R-1 (Single Family Detached Residential) district, based on the findings of the Planning Commission.

38. First of Two Public Hearings on Proposed Amendment to the Land Development Regulations to Allow Multi-Family Housing within the Commercial Parkway Zoning District

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Maloy moved and was duly seconded by Commissioner Rackleff to approve Option 1: Conduct the first of two public hearings and adopt the proposed ordinance amending the Land Development Regulations to allow multifamily housing within the Commercial Parkway Zoning District.

Planning staff explained that the rezoning would allow apartment-type dwellings (16 units per acre) and mixed use development combining commercial and residential along major arterials (encouraging medium density residential in closer proximity to walkable uses).

The motion carried unanimously, 5/0 (Commissioners Winchester and Sauls were out of Chambers),

39. Continuation of First and Only Public Hearing for the Pre-application for Authorization of Water Service Area for Properties, Located South of Ox Bottom Road, Between Chimney Swift Hollow and Spencer Roads

Pursuant to legal advertisement, a public hearing was conducted.

Richard Morgan, 7030 Spencer Road, president of Spencer Road/Sara Leigh Lane Homeowners' Association, appeared and stated that the residents support the rezoning.

Commissioner Grippa moved, duly seconded by Commissioner Maloy and carried unanimously, 6/0 (Commissioner Winchester was out of Chambers), to approve Option 1: Conduct the public hearing and authorize a service area for properties located south of Ox Bottom Road between Chimney Swift Hollow and Spencer Road.

40. Second and Final Public Hearing for a Land Development Regulation Requiring Utilization of the Flooded Property Acquisition Program Waiver, as a Condition to Approval of Applications for Development Orders for the Siting and Construction of Single-Family Residential Structures on Properties Subject to Flooding

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Grippa moved, duly seconded by Commissioner Maloy and carried unanimously, 6/0 (Commissioner Winchester was out of Chambers), to approve Option 1: Conduct the second of two public hearings to consider the proposed land development regulation and adopt the proposed land development regulation, adoption Leon County Ordinance Number 04-34:

41. First and Only Public Hearing on a Proposed Ordinance Imposing and Levying a Fourth Cent Tourist Development Tax

Pursuant to legal advertisement, a public hearing was conducted.

County Attorney Thiele explained that the ordinance would adopt an additional tourist development tax in accordance with agreement that was

reached with CRA (Community Redevelopment Area) issue. This would set up a new sub account on how the funds are to be used.

Guy Thompson, Executive Director of Tourist Development Council, appeared and explained that the third penny tax would be given to the CRA for performing arts center and the fourth penny would go back into the TDA in the tax funds account. (It was noted that the third penny has a broader number of uses.) Commissioner Grippa stated that three cents would forever more go to the TDC (Tourist Development Council).

Commissioner Grippa moved, duly seconded by Commissioner Thael and carried unanimously, 6/0 (Commissioner Winchester was out of Chambers), to approve Options 1 and 2: 1) Conduct the first and only public hearing and adopt the attached Ordinance Number 04-35 imposing and levying a fourth-cent Tourist Development Tax; 2) Approve the attached budget resolution creating the budget for the additional one cent of tourist tax revenue:

42. First and Only Public Hearing to Adopt an Ordinance Amending Section 4-29 of the Leon County Code of Laws Providing for a \$5 Surcharge for Violations of Animal Control Ordinances

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Grippa moved, duly seconded by Commissioner Thael and carried unanimously, 6/0 (Commissioner Winchester was out of Chambers), to approve Option 1: Conduct the first and only public hearing and adopt the attached Leon County Ordinance Number 04-36 amending the Leon County Code of Laws at Section 4-29 to add a new subsection (i):

43. First and Only Public Hearing to Adopt a Proposed Ordinance Amending Section 18-29, Leon County Code of Laws, Regarding Pre-application and Application Procedures and Fees for Public Water and Sewage Disposal Systems

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Grippa moved, duly seconded by Commissioner Thael and carried unanimously, 6/0 (Commissioner Winchester was out of Chambers), to approve Option 1: Conduct the first and only public hearing to adopt the attached Leon County Ordinance Number 04-37 amending Section 18-29, Leon County Code of Laws, and approve the attached Resolution R04-62 adopting pre-application and application fees:

County Attorney Thiele explained that the proposed ordinance eliminates the fees that are set forth in the Code since the fee is adopted by resolution.

Commissioner Thaell moved, duly seconded by Commissioner Maloy and carried 5 – 1 (Commissioner Grippa voted in opposition and Commissioner Winchester was out of Chambers), to extend the Board meeting to 12:30 a.m.

The Board then entered resumed Consent Agenda Items, starting with Item 13.

Discussion Items by Commissioners

Commissioner Rackleff

44. Adoption of Resolution Transferring Title of the County-owned Land Parcel Known as the Blue Bird Property to Habitat for Humanity

Commissioner Rackleff explained that this was a resolution of intent and the property is part of original land that the County purchased for Lake Henrietta stormwater project. He felt this would be a candidate for affordable housing subdivision. When he learned of the interest of Habitat for Humanity in developing this land, he felt it was good opportunity for accomplishing some goals. Habitat for Humanity plans to construct 78 single-family houses.

Commissioner Grippa stated that this should have been publicly noticed so the public could attend if they are interested.

The Board engaged in discussion regarding the method of disposing of public property, competitive bid process, and conveying to non-profit organizations.

Commissioner Grippa spoke about the County's policy of selling property to buy flooded homes in the Southside.

Commissioner Thaell moved and was duly seconded by Commissioner Rackleff to approve Option 1: Authorize staff to pursue Exempt Subdivision process on the County-owned Blue Bird Property, and if appropriate, prepare a resolution authorizing conveyance of subject (subdivided) parcel to Habitat for Humanity.

Commissioner Rackleff moved, duly seconded by Commissioner Thaell and carried 4-2 (Commissioners Proctor and Grippa voted in opposition),

and Commissioner Winchester out of chambers, to extend meeting to 1:00 a. m. Wednesday, October 13, 2004.

The following representatives of Habitat for Humanity appeared:

Kathleen Lacher, Lou Arbestos, Eva Jones Walker, Jan Nicholas of 910 Yuma Road; Nancy Linnan, Brant Copeland, Bob Inzer, Scott Hall, Fred Harris

Following some discussion, Commissioner Thael withdrew his motion.

Commissioner Grippa moved, duly seconded by Commissioner Rackleff and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to bring back a resolution, publicly advertise, include a value, staff analysis, and other general information for the Oct 26, 2004 agenda.

Receipt and File Items noted by the County Attorney

Noted the receipt and file of the following:

- Piney Z Community Development District Fiscal Year 2005 Meeting Dates
- Fallschase Community Development District Fiscal Year 2005 Meeting Dates
- Comcast Update on Maximum Permitted Rates, Regulated Equipment, and Installation Costs

Commissioner Sauls

- a. Requested the County Administrator negotiate with St. Joe for five acres of land for the construction of the Woodville Community Center. Chairman circulated information to County Administrator Alam.
- b. Commissioner Sauls moved, duly seconded by Commissioner Grippa and carried unanimously, 6/0 (Commissioner Winchester out of Chambers) to agenda a funding request by Jazz Jam for October 26, 2004.
- c. Commissioner Grippa moved, duly seconded by Commissioner Maloy and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to contribute \$1,000 for a table at the 27th Annual NAACP Freedom Awards Program.
- d. Commissioner Proctor moved, duly seconded by Commissioner Grippa and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to agenda a status report on the attorneys' fees and costs associated with the transfer station litigation. (This was a request from a plaintiff). Information was given to County Administrator.

Commissioner Thael

- a. Requested to agenda an item to consider Leon County as a grant recipient of Innovation Park for a technology commercialization grant program for \$15,000 to support Leon County participating as partner in virtual business incubation plan. It was noted that the City, TCC, FSU, and the School Board was participating.

Commissioner Grippa moved and was duly seconded by Commissioner Proctor to not agenda the item. Commissioner Grippa indicated that the park already has over \$1.1 million on the incubator program and this item should have been brought forth during regular budget discussions.

Following some discussion, Commissioner Grippa withdrew his motion.

Commissioner Thael moved, duly seconded by Commissioner Rackleff and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to agenda the item for Oct 26, 2004.

- b. Commissioner Thael moved, duly seconded by Commissioner Maloy and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to agenda a status report on City/County coordination of stormwater management and a proposal to protect water quality through watershed protection for October 26, 2004.

Add-On

Request to Approve Travel Expenses for Commissioner Bill Proctor and Commission Aide, Delane Adams, to visit Prince George County and Washington, D.C. on October 28-31, 2004.

Commissioner Grippa moved, duly seconded by Commissioner Maloy and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to waive the rules of procedure and to take up this item.

Commissioner Thael moved, duly seconded by Commissioner Grippa and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to approve the travel request.

Commissioner Grippa

- a. Commissioner Grippa asked if it would be necessary to raise taxes in order to meet the \$6.1 million shortfall for purchase of the Bank of America Building, particularly since the budget was cut \$1.4 million. He wanted to know how the County plans to pay for the shortfall and what is being cut in

the budget. Commissioner Grippa moved, duly seconded by Commissioner Thael and carried unanimously, 6/0 (Commissioner Winchester was out of Chambers), to agenda the item.

- b. Commissioner Grippa moved, duly seconded by Commissioner Thael and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to agenda the issue of the County's process for disposal of properties to non-profit organizations. This would include a range of options.

The Chairman reminded Commissioners of a joint City/County public hearing on the Comprehensive Plan at City Hall on Thursday, October 14, 2004 at 6:00 p.m.

There being no further business to come before the Board, the meeting was adjourned at 1:05 a.m. Wednesday, October 13, 2004.

APPROVED: _____
Jane Sauls
Chairman

ATTEST:

Bob Inzer
Clerk of the Circuit Court